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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,239	08/07/2001	Thomas Ackermann	P01,0184	7077

7590 10/28/2003  
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EXAMINER

CHARIOUI, MOHAMED

ART UNIT PAPER NUMBER

2857

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant No.

09/868,239

Applicant(s)

ACKERMANN ET AL.

Examiner

Mohamed Charioui

Art Unit

2857

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Applicant's arguments, see pages 5-6, filed 9/22/03, with respect to the rejection(s) of claim(s) 1-9 under 35 USC § 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. Prosecution is hereby re-opened, a new ground(s) of rejection is made in view of Hedstrom et al.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 4-9** are rejected under 35 U.S.C. 102(e) as being anticipated by Hedstrom et al. (U.S. 6,477,471).

**As per claims 1, 4 and 6-9**, Hedstrom et al. teach matching, using a processor, a stochastic process to the given measurement data (see col. 3, lines 35-65); running simulation runs of the stochastic process from a given time-point until the final time-point (see col. 2, lines 19-44); determining forecast measurement data for each simulation run (see col. 3, line 35 to col. 4, line 9); predicting measurement data by stating a range of values, which is determined by the forecast measurement data (see col. 4, lines 5-20), and providing the predicted measurement data as useable output (see col. 4, lines 10-19).

**As per claim 5**, Hedstrom et al. further teach that the measurement data represents numbers of errors (see col. 4, lines 14-20).

***Allowable Subject Matter***

3. **Claims 2 and 3** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of record teaches or suggests eliminating a lowest percentage and a highest percentage forecast measurement data in combination with the rest of the claim limitations.

**Prior art**

4. The prior art made record and not relied upon is considered pertinent to applicant's disclosure:

**Kheradpir ['118]** discloses predictive access-control and routing system for integrated services telecommunication networks.

**Makivic ['662]** discloses simulation method and system for the valuation of derivative financial instruments.

**Rajan et al. ['131]** disclose method and apparatus for automated simulation and design of corneal refractive procedures.

**Davidson et al. ['907]** disclose biaxial non-contacting strain measurement using machine vision.

**Contact information**

Application/Control Number: 09/868,239  
Art Unit: 2857

Page 4

5. Any inquiry concerning this communication from examiner should be directed to Mohamed Charioui whose telephone number is 703 605-4362. The examiner can normally be reached Monday to Friday 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached at 703 308-1677. The fax phone number for the organization where this application is assigned is 703 305-3431.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose number is 703 308-0956.

Mohamed Charioui

10/15/03

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800